

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>RAYMOND W. WACKER, SR.,</b>	)	<b>CASE NO. 1:12 CV 127</b>
	)	
<b>Plaintiff,</b>	)	<b>JUDGE CHRISTOPHER A. BOYKO</b>
	)	
<b>v.</b>	)	<b>MAGISTRATE JUDGE WHITE</b>
	)	
<b>PATRICK R. DONAHUE,</b>	)	
Postmaster General U.S. Postal	)	
Service, <i>et al.</i> ,	)	
	)	
<b>Defendants.</b>	)	<b>REPORT AND RECOMMENDATION</b>

On January 19, 2012, Plaintiff Raymond W. Wacker, Sr., *pro se*, (hereinafter “Plaintiff”) filed a Complaint alleging race-based discrimination and retaliation during his employment with the United States Postal Service. (ECF No. 1.) This matter comes before this Court by referral for general pretrial supervision. (ECF No. 3.)

On August 22, 2012, the Court set an in-person Case Management Conference (“CMC”) for September 18, 2012. (ECF No. 10.) The order also required the parties to engage in a planning meeting and to submit a report five days prior to the CMC. *Id.* Plaintiff was served a copy of the order at the address he provided. No planning meeting was held, as counsel for Defendants represented that her efforts to reach Plaintiff were

unsuccessful. (ECF No. 12.) Plaintiff failed to attend the CMC and did not seek leave excusing his absence or a continuance. (ECF No. 13.) Furthermore, Plaintiff has not responded to Defendants' Motion for Partial Dismissal (ECF No. 8) filed on August 3, 2012, despite the expiration of time to do so.

Consequently, the Court set a Show Cause Hearing for October 3, 2012. (ECF No. 14.) Plaintiff was again served a copy of the order at the address he provided. Plaintiff was expressly informed that failure to attend could result in dismissal of this action with prejudice. *Id.* Nonetheless, Plaintiff failed to appear at the Show Cause Hearing. The Court finds that Plaintiff has engaged in contumacious conduct by deliberately ignoring court orders and failing to participate in the prosecution of this action. Defendants, having attended all conferences, have been prejudiced by Plaintiff's failure to attend and by the delay in the timely prosecution of this action. The Court considered less drastic sanctions than dismissal without prejudice by giving Plaintiff an opportunity to explain his failure to attend the CMC at the Show Cause hearing. However, Plaintiff again ignored the Court's order.

For the foregoing reasons, it is recommended that Plaintiff's complaint be dismissed with prejudice for want of prosecution.

s/Greg White  
United States Magistrate Judge

Dated: October 3, 2012

### **OBJECTIONS**

**Any objection to this Report and Recommendation must be filed with the Clerk of Courts within fourteen (14) days after the party objecting has been served with a copy of this Report and Recommendation. Failure to file objections within the specified time may waive the right to appeal the District Court's order. See *United States v. Walters*, 638 F.2d 947 (6<sup>th</sup> Cir. 1981). See also *Thomas v. Arn*, 474 U.S. 140 (1985), *reh'g denied*, 474 U.S. 1111 (1986).**

